IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3136 OF 2007
IN
FIRST APPEAL NO.2227 OF 2006

The Municipal Corporation of
City of Thane ...Applicant

vs.

M/s.Unity Auto Industries ...Respondent

Mr.Mandar Limaye for the Applicant
Mr.D.M.Hungal for the Respondent.

CORAM: A.S.OKA,J.
DATE : AUGUST 31, 2007.

P.C.:

1. Heard Advocates for the parties. This Civil Application is preferred by the Appellant in a disposed of First Appeal. By order dated 23rd January 2007 passed in the First Appeal, the Judgment and Decree passed by the trial court in favour of the Respondent was set aside subject to various conditions. The first condition was that the Appellant will deposit the decretal amount within a period of four weeks from that date. The Applicant was directed to pay costs of Rs.5,000/- to the Respondent within a period of four weeks from that date. Time to deposit was extended by a further order dated 20th February 2007. As per the order dated 20th February 2007, the amount ought to have been deposited on or before 6th March 2007. However, that was not done by the Applicant.

2. An averment has been made in this Application that a cheque of the decretal amount was ready on 7th March 2007 and the cheque in the sum of Rs.5,000/- being the amount of costs was received in the evening of 6th March 2007. It is stated that the cheques could not be deposited within stipulated period.

3. The learned counsel for the Respondent has opposed this application by pointing out that sufficient time was granted under order dated 23rd January 2007 which was extended as a last chance by order dated 20th February 2007 and therefore, time cannot be extended further.

4. There is a specific averment that the cheque towards the decretal amount was ready on 7th March 2007 and the cheque for payment of costs was ready by evening on 6th March 2007. In view of these averments, a case is made out for extending the time. However, the Respondent will have to be compensated by ordering payment of costs. The amount of costs payable to the Respondent of this Civil Application is quantified at Rs.5,000/-.

5. The learned Advocate for the Applicant has handed over two pay orders in the sum of Rs.5,000/- each to the Advocate for the Respondent who has accepted the same without prejudice to the rights ad contentions of the Respondent. The said two pay

orders of Rs.5,000/- each represent the costs payable in the First Appeal as well as costs payable in this Civil Application.

6. Time to deposit the decretal amount deserves to be extended by a period of two weeks from today. Hence, the Application is disposed of by passing the following order :

i) Time to deposit the decretal amount fixed by order dated 23rd January 2007 is extended by a period of two weeks from today. The trial court will accept the decretal amount on the basis of an authenticated copy of this order.

ii) The trial court will dispose of the suit as expeditiously as possible and preferably on or before 30th November 2007.

iii) Civil Application is disposed of accordingly.

iv) Parties and the trial court to act upon an authenticated copy of this order.

JUDGE